

REMARKS/ARGUMENTS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-24 are in this case. Claims 1-10 have been rejected under § 102(b) as being anticipated by Bengtson (5,720,520) and claims 11-24 under § 103 as being unpatentable over Bengtson in view of either Adams (3,538,552) or South (4,768,620). Claims 1 and 11 have now been amended.

In the "response to Amendment" section of the current Office Action, the Examiner states, "In response to the applicant's argument that Bengtson fails to teach the use of the back board 14 as a seat back, such teachings contradict the unequivocal teachings of seat 32 including a padded headrest." The Examiner further states that if the prior art structure is capable of performing the intended use, then it meets the claim. The Examiner's rejections are respectfully traversed.

Bengtson clearly teaches:

"...a flat base board with a central aperture formed therethrough..." (col. 1, lines 42-43, emphasis added); and

"A large central aperture 30 is formed through base board 12 which will receive a conventional fabric seat 32 therein for supporting a baby. Seat 32 includes a pair of leg holes 34, and is fastened around a peripheral edge 36 to the circumference of the aperture 30. A padded headrest 38 may be mounted along the rearward edge of seat 32 in a conventional manner."

"Back board 14 is shown in the upright position in FIG. 1, and includes a forward surface 14a..." (col. 2, lines 31-39, emphasis added).

As disclosed, a child is placed in Bengtson's seat is suspended with its torso in the seat portion 32, with legs extending through holes 34 and dangling below the seat, and its head resting against the headrest 38.

The applicant asserts that a person attempting to seat a baby or small child in a sitting position on the base board 12, would find headrest 38 a clear obstruction of the attempted "seat" area, as seen clearly in Figures 1, 3 and 4. Further, with the headrest in place or removed, the large central aperture 30 would provide an equally formidable obstruction.

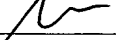
With regard to claim 2, the Applicant agrees with the Examiner that Bengtson clearly teaches seat 32 having a headrest 38. The Applicant is of the opinion that this only serves to strengthen the Applicant's previous assertion (arguments filed June 11, 2003) that not only does Bengtson not teach the use of back board 14 and a seat back, but that in such a configuration, it would be physically impossible for back board 14 to serve as a seat back. That is, with a baby suspended with its torso in the seat portion 32, with legs extending through holes 34 and head resting against the headrest 38, it would not be possible to use back board 14 as a backrest. Further regarding claim 2, a person attempting to place a baby or small child with their back against back board 14, as if it were a backrest, would find headrest 38 and the large central aperture 30, both to be clear obstructions of the attempted "seat" area of base board 12, as discussed above.

While continuing to traverse the Examiner's rejections, the Applicant, in order to expedite the prosecution of this case, chooses to amend the claims in order to further distinguish the present invention from the cited prior art. Specifically, claims 1 and 11 have now been amended to include language that clearly states that the seat bench having a substantially unobstructed planar upper surface designed and configured to be mounted in a substantially horizontal orientation, such that a child sits directly on the seat. Support for these amendments is provided on page 13, lines 15-16, and in Figures 4a-8.

As for the § 103 reject due to a combination of Bengtson in view of either Adams or South, the Applicant respectfully submits that as a result of the above amendments the present invention is clearly distinguished over Bengtson, and therefore, and combination of Bengtson with either Adams or South is now rendered mote.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
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